

**Statement of Representative Mike Simpson (R-ID)
before the
Subcommittee on Benefits
House Committee on Veterans Affairs
H.R. 850
“The Former Prisoners of War Special Compensation Act of 2003”
April 10, 2003**

Mr. Chairman, Members of the Subcommittee, I am pleased to appear before you today to discuss my bill, H.R. 850, "The Former Prisoners of War Special Compensation Act of 2003". I introduced this legislation on February 13, 2003 and it is identical to the bill I introduced in the 107th Congress, H.R. 5235, with one additional provision which I will describe later. There are currently 29 Republican and Democrat cosponsors on the bill

As you know, I was privileged to serve as Chairman of this Subcommittee in the last Congress. I can tell you from my experience as Chairman, this Subcommittee plays a vital role in authorizing and protecting the federal benefits that American veterans and their dependents receive for their service to the nation.

Today, I want to talk about a group of veterans who are truly America's heroes: former U.S. Prisoners of War (POWs). As I said when I introduced the bill, it is hard to envision the horror endured by our nation's POWs. They were subjected to conditions most of us could never imagine: painful interrogation, sleep deprivation, torture and forced manual labor. We must never forget their sacrifices.

In conversations with my friend, Secretary Principi, veterans groups and others, I came to realize there is a gap in benefits with respect to former POWs. I strongly believe a special compensation program is warranted, similar to that paid by the VA to Medal of Honor recipients.

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My bill would establish a three-tiered special monthly pension based upon length of internment and would be in addition to any other service-connected disability compensation or pension that a former POW may be receiving. The new compensation system would be delivered through the Department of Veterans Affairs. Under this system, POWs detained 30 to 120 days would receive \$150 per month, those detained 121 to 540 days would receive \$300 per month, and those detained for 540 or more days would receive \$450 per month.

In addition, section 4 of the bill contains a provision that was not in last year's bill: to provide outpatient dental care for all POWs without a minimum period of internment. Under current law, a period of internment of not less than 90 days is required in order to qualify for such benefits.

It is important to note that my legislation would apply to POWs from all wars. There are an estimated 42,781 surviving ex-POWs in the United States today: more than 39,700 from World War II; 2,400 from the Korea War; 601 from the Vietnam War; three from Kosovo and one from Somalia. In my home state of Idaho, there are approximately 80 ex-POWs. Of course, the bill would also apply to U.S. POWs now being held by Iraq.

CBO Cost Estimate and Offsets

The Congressional Budget Office prepared a cost estimate on H.R. 5235 as introduced last Congress. I would ask the Chairman if I could submit the text of the CBO letter for the hearing record. In summary, CBO estimated that enacting the POW compensation provisions of H.R. 5235 would increase direct spending by \$24 million in 2003, \$345 million over the 2003-2007 period, and \$634 million over the 2003-2012 period.

I believe that this is a modest cost in light of the sacrifice and hardships POWs endured while held captive by a hostile power. However, H.R. 850 also contains an offset: a provision in Section 3 which would clarify that disability compensation for alcohol and drug abuse arising secondarily from a service-connected disability could not be paid.

CBO has said this provision would decrease direct spending by \$180 million over the 2003-2012 period. However, the President's budget proposal for fiscal year '04 contains this provision and claims savings of \$127 million a year. The budget already assumes enactment of the Allen repeal.

But there is another kind of offset we must consider: the offset of equity, the offset of justice for our veterans. The bill I introduced last year did save on some government spending, and it did so not by eliminating a benefit that our veterans are entitled to, but rather by cutting back on an incorrect and, frankly, excessive court interpretation of benefits for certain service-related drug and alcohol abuse. I believe a court made a mistake, and it was a mistake in veterans' favor, but that doesn't mean the mistake should not be corrected.

U.S. International Obligations

Let me briefly address the issue of POW compensation and U.S. international obligations. It is important to recognize that, as a general principle of international law, wars between nations are ended by governments, not private individuals. Reparations and claims are negotiated through government-to-government agreements and treaties. Every country has a duty to provide benefits and compensation to its own veterans.

A case in point is our obligations under the 1951 Treaty of Peace with Japan signed in San Francisco between United States, Japan and 47 other Allied countries. This Treaty has not only provided the basis for our security relationships in the Asia-Pacific region, it also set up a system of compensation for former Prisoners of War held by Japan.

As you may know, former U.S. POWs interned by Japan during World War II have filed numerous class action lawsuits against Japanese corporations in U.S. courts seeking compensation, damages and reparations resulting from forced labor and mistreatment by Japan. Although a federal appeals court upheld the dismissal of some of the suits in January, this issue is far from resolved as appeals and state court cases are still pending. These lawsuits concern me.

Further, last Congress, legislation was introduced (H.R. 1198) which would have the effect of abrogating the Treaty because it would create a new right for former members of the Armed Services to sue Japanese corporations based on actions taken during WWII. I believe this legislation was well-intentioned and I agree that we should compensate these POWs who were forced to work. However, private lawsuits for reparations are not the answer. That is why I believe my legislation is so compelling. In fact, the Treaty actually contemplates that signatory governments would take care of their own veterans. I understand that Allied governments have made payments to their former POWs as well.

I would like Members to hear the quote from the testimony of the Assistant Attorney General, Robert McCollum, U.S. Department of Justice, before the House Judiciary Committee last September in opposition to H.R. 1198:

Under the 1951 Treaty, Japan waived all claims against the Allies and their nationals and gave the Allies the right to seize and dispose of approximately \$4 billion in Japanese assets located within their territories-including the assets of Japanese corporations. In return, in Article 14 of the Treaty, the Allied nations expressly waived-on behalf of themselves and their nationals- claims arising out of actions taken by Japan and its nationals in the course of the prosecution of the war. This waiver included the claims of United States and Allied prisoners of war.

In waiving all such claims against Japan and its nationals, each Allied government assumed the responsibility for using the seized Japanese assets to provide compensation to its nationals in a manner it deemed fair and equitable. In the United States, the seized assets were placed into the War Claims Fund established pursuant to the War Claims Act, 50 U.S.C.App. 2001, *et seq.*, and distributed through the War Claims Commission. Among those eligible for payments from the War Claims Fund were Americans held as prisoners of war by Japan, who received payments based on the conditions of their imprisonment, including whether they were forced to perform labor without pay in contravention of the Geneva Convention. *Hearing before the Subcommittee on Immigration, Border Security and Claims, Committee on the Judiciary, House of Representatives, September 25, 2002, Serial No. 106, p.15.*

Our relationship with Japan has grown out of this Treaty. Our military and security interests in Asia, including a substantial military presence in Japan would be jeopardized by reopening the Treaty. In fact, Japan has become one of our closest allies and strongly supports the U.S. in the war with Iraq.

This issue of POW compensation was also recently addressed by Secretary of State Colin Powell in a colloquy before the House Budget Committee with Representative Doc Hastings. The Secretary said as follows:

I am familiar with the issue and have studied it on a number of occasions over the past few years because these were our folks and they suffered mightily during the Baatan Death March. And are further entitled to compensation for their suffering.

The difficult legal situation we find ourselves in is that the 1951 Treaty by its terms, resolved all outstanding claims and as a precedent of international law, we have to defend that principle of the treaty trumping all other claims in this matter. And that is the reason that the State Department has held firmly to the position that the Treaty resolved these claims and these issues. At the same time, we have been trying to find creative ways outside of the law and outside of the treaty whereby a form of compensation might be provided to these veterans. I can't speak specifically to the legislation that you might have in mind, but I would be more than willing and anxious to take a look at it to see if it is a way forward.

But I have to stand on the principle of the treaty resolving the claims. Otherwise it would open up all sorts of opportunities for claims that were settled by other treaties or by this treaty (*unofficial transcript, House Budget Committee Hearing, February 6, 2003*).

As you can see, the Bush Administration strongly supports the Peace Treaty and its system of POW compensation. I believe we can work with the Departments of State and Veterans Affairs to work out a new compensation program like the one I have proposed.

Conclusion:

Mr. Chairman, with our military now engaged in Iraq and with the war on terrorism, this Committee has a special responsibility to our future veterans. As I noted earlier, former U.S. POWs have often experienced inadequate food and medical care and even physical and psychological trauma. As a result, I strongly believe the time is right for a program of special compensation for former U.S. POWs. I ask your support for this important legislation.

I would be happy to answer any questions.

Mr. Chairman, Members of the Subcommittee, I am pleased to appear before you today to discuss my bill, H.R. 850, the "Former Prisoners of War Special Compensation Act." This legislation, which I also introduced last year, establishes a special pension for former prisoners of war. I believe there are currently 29 Republican and Democrat co-sponsors on the bill.

As you know, I was privileged to serve as Chairman of this Subcommittee in the last Congress. I can tell you from my experience as Chairman, this Subcommittee plays a vital role in authorizing and protecting the federal benefits that American veterans and their dependents receive for their service to the nation.

Today, I want to talk about a group of veterans that are truly America's heroes: former prisoners of war. There are approximately 40,000 surviving former POWs, a majority of whom served during World War II. The average age of surviving former POWs is 80 years. Most former POWs endured inhumane treatment and conditions during an average captivity of 16½ months. Many were subjected to interrogation and forced slave labor. The physical and psychological affects on these individuals persist throughout their lifetimes, impacting their health, their families, and their social relationships.

In conversations with my friend, Secretary Principi, veterans groups, and others, I came to realize there is a gap in benefits with respect to former POWs. I strongly believe a special compensation program is warranted.

Although we can never hope to fully compensate these brave men and women for their suffering, H.R. 850 recognizes and pays tribute, albeit in a small way, to the real sacrifices made by our former prisoners of war who were forcibly detained by the enemy. Specifically, the bill establishes a three-tiered special monthly pension: those who were detained 30-120 days would receive \$150 per month; those detained 121-540 days would receive \$300 per month; and those who were detained for 540 or more days would receive \$450 per month. The pension would be delivered through the Department of Veterans Affairs. In addition, the bill contains a provision to provide outpatient dental care for all former POWs. Current law requires a period of internment of not less than 90 days in order to qualify.

It is important to note that my legislation would apply to ex-POWs from all wars, including the more than 39,700 surviving from World War II; 2,400 from the Korean War; 601 from the Vietnam War; three from Kosovo; and one from Somalia. Of course, the bill would also apply to U.S. POWs now being held by Iraq.

Offsets for this bill would come from repealing a 2001 Court decision, *Allen v. Principi*. The Court clarified, in this decision, that VA may pay compensation for an alcohol or drug abuse condition when it is secondary to a primary service-connected condition, such as, in Mr. Allen's case, Post Traumatic Stress Disorder. An article was published in the New England Journal of Medicine, in 1995, which concluded that, and I quote, "the cyclic pattern of drug use strongly suggests that it is influenced by the monthly receipt of disability payments", end quote. I do not believe VA should compensate for a service-connected condition **AND** abusing oneself with illegal narcotics or alcohol. ***Further, such behaviors should be treated medically, not "rewarded" financially.***

This special pension, similar to the Medal of Honor pension that VA pays to Medal of Honor recipients, recognizes the hardships faced by the veteran during his or her captivity, and would be paid without regard to any other payment made under the laws of the United States. We must never forget their sacrifices.

Mr. Chairman, with our military now engaged in Iraq and with the war on terrorism, this Committee has a special responsibility to our future veterans. As I noted earlier, former U.S. POWs have often experienced inadequate food and medical care, and physical and psychological trauma. As a result, I strongly believe the time is right for a program of special compensation for former POWs.

Thank you again for the opportunity to testify on H.R. 850.

I would be happy to answer any questions.